

PART 1045—BROKERS OF PROPERTY

Sec.

- 1045.1 Applicability.
- 1045.2 Definitions.
- 1045.3 Records to be kept by brokers.
- 1045.7 Misrepresentation.
- 1045.9 Rebating and compensation.
- 1045.10 Duties and obligations of brokers.
- 1045.13 Accounting.

AUTHORITY: 49 Stat. 544, as amended, 546, as amended, 554, as amended; 49 U.S.C. 303, 304, 311; 49 U.S.C. 10321; 5 U.S.C. 553.

SOURCE: 45 FR 68942, Oct. 17, 1980, unless otherwise noted.

§ 1045.1 Applicability.

This part applies, to the extent provided therein, to all brokers of transportation by motor vehicle as defined in § 1045.2.

[32 FR 20034, Dec. 20, 1967]

§ 1045.2 Definitions.

(a) *Broker* means a person who, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier. Motor carriers, or persons who are employees or bona fide agents of carriers, are not brokers within the meaning of this section when they arrange or offer to arrange the transportation of shipments which they are authorized to transport and which they have accepted and legally bound themselves to transport.

(b) *Bona fide agents* are persons who are part of the normal organization of a motor carrier and perform duties under the carrier's directions pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.

(c) *Brokerage* or *brokerage service* is the arranging of transportation or the physical movement of a motor vehicle or of property. It can be performed on behalf of a motor carrier, consignor, or consignee.

(d) *Non-brokerage service* is all other service performed by a broker on behalf of a motor carrier, consignor, or consignee.

§ 1045.3 Records to be kept by brokers.

(a) A broker shall keep a record of each transaction. The record shall show:

- (1) The name and address of the consignor;
- (2) The name, address, and lead MC-number of the originating motor carrier;
- (3) The bill of lading or freight bill number;
- (4) The amount of compensation received by the broker for the brokerage service performed and the name of the payer;
- (5) A description of any non-brokerage service performed in connection with each shipment or other activity, the amount of compensation received for the service, and the name of the payer; and
- (6) The amount of any freight charges collected by the broker and the date of payment to the carrier.

For purposes of this subsection, brokers may keep master lists of consignors and the address and lead docket number of the carrier, rather than repeating this information for each transaction.

(b) Brokers shall keep the records required by this section for a period of three years.

(c) Each party to a brokered transaction has the right to review the record of the transaction required to be kept by these rules.

§ 1045.7 Misrepresentation.

(a) A broker shall not perform or offer to perform any brokerage service (including advertising), in any name other than that in which its license is issued.

(b) A broker shall not, directly or indirectly, represent its operations to be that of a carrier. Any advertising shall show the broker status of the operation.

§ 1045.9 Rebating and compensation.

(a) A broker shall not charge or receive compensation from a motor carrier for brokerage service where:

- (1) The broker owns or has a material beneficial interest in the shipment or
- (2) The broker is able to exercise control over the shipment because the

Surface Transportation Board, DOT

§ 1047.10

broker owns the shipper, the shipper owns the broker, or there is common ownership of the two.

(b) A broker shall not give or offer to give anything of value to any shipper, consignor or consignee (or their officers or employees) except inexpensive advertising items given for promotional purposes.

§ 1045.10 Duties and obligations of brokers.

Where the broker acts on behalf of a person bound by law or a Commission regulation as to the transmittal of bills or payments, the broker must also abide by the law or regulations which apply to that person.

[45 FR 68943, Oct. 17, 1980]

§ 1045.13 Accounting.

Each broker who engages in any other business shall maintain accounts so that the revenues and expenses relating to the brokerage portion of its business are segregated from its other activities. Expenses that are common shall be allocated on an equitable basis; however, the broker must be prepared to explain the basis for the allocation.

[45 FR 68943, Oct. 17, 1980]

PART 1047—EXEMPTIONS

Sec.

1047.1 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.

1047.2 Motor vehicles employed solely in transporting school children and teachers to or from school.

1047.10 Interstate operations by motor common carriers within a single State.

TRANSPORTATION AND NOTICE THEREOF BY AGRICULTURAL COOPERATIVE ASSOCIATIONS

1047.20 Definitions.

1047.21 Computation of tonnage allowable in nonfarm-non-member transportation.

1047.22 Nonmember transportation limitation and record keeping.

1047.23 Notice to the Commission.

PARTIAL EXEMPTION FOR AGRICULTURAL COMMODITIES, LIVESTOCK, AND FISH

1047.25 Commodities that are not exempt under 49 U.S.C. 10526(a)(6).

PARTIAL EXEMPTION FOR MOTOR TRANSPORTATION OF PASSENGERS INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

1047.45 Motor transportation of passengers incidental to transportation by aircraft.

AUTHORITY: 49 U.S.C. 10525, 10526, 10931.

SOURCE: 32 FR 20036, Dec. 20, 1967, unless otherwise noted.

§ 1047.1 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.

The partial exemption from regulation under the provisions of Part II of the Interstate Commerce Act of the casual, occasional, and reciprocal transportation of passengers by motor vehicle in interstate or foreign commerce for compensation as provided in section 203(b)(9) of the act be, and it is hereby, removed to the extent necessary to make applicable all provisions of Part II of the act to such transportation when sold or offered for sale, or provided or procured or furnished or arranged for, by any person who sells, offers for sale, provides, furnishes, contracts, or arranges for such transportation for compensation or as a regular occupation or business.

§ 1047.2 Motor vehicles employed solely in transporting school children and teachers to or from school.

The exemption set forth in section 203(b)(1) of the act shall not be construed as being inapplicable to motor vehicles being used at the time of operation in the transportation of schoolchildren and teachers to or from school, even though such motor vehicles are employed at other times in transportation beyond the scope of the exemption.

[36 FR 9022, May 18, 1971]

§ 1047.10 Interstate operations by motor common carriers within a single State.

Every common carrier by motor vehicle who proposes to engage in any operations in interstate or foreign commerce under the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, shall, prior to commencing such operations,